



PRESS RELEASE

Attorney General Frosh Joins Federal Lawsuit to Protect Tipped Workers

BALTIMORE, MD (January 19, 2021) – Maryland Attorney General Brian E. Frosh today joined a multistate coalition in filing a [lawsuit](#) to stop the last ditch effort by the Trump Administration to allow employers to withhold tips from their employees. The lawsuit challenges a U.S. Department of Labor (USDOL) rule that unlawfully seeks to remove the limit on non-tipped work a tipped worker may complete and still receive only the tipped minimum wage, \$2.13 per hour federally and \$3.63 per hour in Maryland.

The Fair Labor Standards Act (FLSA), the federal law establishing a baseline of critical workplace protections, such as minimum wage and overtime, permits employers to take a credit against their minimum wage obligations for the tips workers receive. For 30 years, USDOL regulations have capped the amount of non-tipped work a tipped worker may do at 20-percent, also referred to the “80/20 rule.” The new rule eliminates that cap, among other provisions. In December, 2019, Attorney General Frosh joined [comments](#) to USDOL opposing the proposed rule.

“Thousands of Marylanders rely on tips to pay their bills and feed their families,” said Attorney General Frosh. “COVID-19 has shuttered many businesses that employ tipped workers, virtually eliminating much-needed income. What these hard working people need from the federal government is relief, not a pay cut.”

The coalition asserts that the rule contradicts the text and purpose of the FLSA, and that the USDOL violated the rulemaking process requirements, including failing to analyze the impact the rule would have on tipped workers. In addition, the rule fails to justify its departure from the longstanding 80/20 rule. The states argue that the rule will harm the states by reducing income tax revenue, increasing public benefits expenditures, and imposing administrative costs.

In addition to Maryland, the suit was joined by the attorneys general of Delaware, the District of Columbia, Illinois, Massachusetts, Michigan, New Jersey, New York, and Pennsylvania.